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Held at the Headquarters of the Food and Agriculture Organization of the United Nations on Wednesday, 17 June 1998, at 10 a.m.

President: Mr. CONSO (Italy)

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The meeting was called to order at 10 a.m.

CONSIDERATION OF THE QUESTION CONCERNING THE FINALIZATION AND ADOPTION OF A CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTIONS 51/207 OF 17 DECEMBER 1996 AND 52/160 OF 15 DECEMBER 1997 (*continued*) (A/CONF.183/2/Add.1)

1. **Mr. DINI** (Italy) said that his country had long supported the codification of new rules for international coexistence, ensuring compliance through appropriate instruments. Violence, grievous misdeeds and harassment of individuals and whole peoples were stirring the conscience of societies. Common sense demanded that instruments should be put in place to prevent and punish the most outrageous crimes against international law, to make it clear that, even in war, conduct was subject to rules and penalties. It was not enough for the international community to reach agreement on defining international criminal offences. An authority was also necessary to prosecute them.

2. The International Criminal Court must be a strong institution, with very broad participation, to make its Statute universal. It must be devoid of partisan pressure, independent, impartial and based on the principle of the right to a fair trial.

3. The Court must effectively complement national courts and have jurisdiction where the latter were either unwilling or unable to act effectively. It was crucial to identify the crimes falling within the jurisdiction of the Court, which should be limited to the most heinous crimes committed in the context of armed conflict, whether international or not. Although the Security Council retained responsibility to ascertain the existence of aggression, the Court should be empowered to prosecute the crime itself. In order to safeguard the responsibilities for peacekeeping and international security vested in the Security Council, a balance must be struck in its relationship to the Court. The latter should be able to perform its judicial functions in total independence and without hindrance. The Prosecutor must be empowered to institute proceedings independently, as well as at the request of individual States or the Security Council. The Court's jurisdiction must be triggered automatically and be imposed on States by virtue of accession to the Statute alone. Otherwise, the Court would remain an arbitration tribunal, operating solely according to contingent political will. Every State party must guarantee its total cooperation with the Court in every phase of its work. That was vital to ensure its credibility and effectiveness.

4. **Mr. VAÏO** (Slovakia) supported the establishment of an international criminal court to punish those responsible for the most serious criminal acts. It should be a strong, independent court and must have authority to ensure punishment of those guilty of the crimes of genocide, war crimes and crimes against humanity. The Court's jurisdiction should also extend to the extremely serious crime of aggression. The principle of complementarity was very important, for the International Criminal Court should exercise its jurisdiction only when national legislation did not provide for the initiation of proceedings or national bodies were failing to act. His own country's criminal code provided for prosecution of the crimes of genocide, crimes against humanity and war crimes.

5. The Court's jurisdiction should include crimes committed in both international and internal conflicts. It should have authority to prosecute crimes committed in the territory of a State party, without the consent of that State. If the crime occurred in a State not party to the Statute, criminal prosecution would be possible only with the consent of that State. All States parties to the Statute must undertake to cooperate with the International Criminal Court. The Statute must establish a mechanism for such cooperation, but should not allow reservations.

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6. **Mr. AL NOAÏMI** (United Arab Emirates) said that, on the eve of the twenty-first century, the world had witnessed increasing violations of human rights. The efforts undertaken by the international community to adopt and promote human rights had faced a number of obstacles, owing to the lack of permanent mechanisms to establish deterrent sanctions. The creation of the International Criminal Court would ensure that persons responsible for serious human rights violations would be prosecuted and punished.

7. The particular crimes to be addressed by the International Criminal Court had to be defined very precisely. The Court must be independent, but the major role of the Security Council should not be ignored, with the result that the Prosecutor should not be able to initiate procedures on his own initiative, but only at the request of a State party or the Security Council.

8. His country was fully prepared to cooperate with the Court, provided that it did not affect its own national security. The International Criminal Court should not consider crimes committed in States not parties to the Statute, unless such States gave their consent, or unless so decided by the Security Council.

9. **Mr. PATRICIO** (Mozambique) said that the International Criminal Court should be a permanent, independent, universal and efficient instrument to punish serious crimes against international law. Since the principles of sovereignty and non-interference were sacrosanct, the prior consent of a State to confer jurisdiction on an international court was required. The International Criminal Court must be complementary to national courts in dealing with the crimes of genocide, war crimes, crimes against humanity and aggression, all of which needed to be clearly defined.

10. Coordination and cooperation between the Court and the Security Council should be clearly set out, so as to enhance international law and respect for universal human rights.

11. He supported the principle that the United Nations should fund the Court initially, until it had sufficient resources of its own. That should not, however, compromise the independence and efficiency of the Court, or that of its judges and the Prosecutor. He urged the Conference to reaffirm its commitment to a world where the kind of war crimes committed in Rwanda and Bosnia and Herzegovina could never be repeated.

12. **Mr. HASHIM** (Brunei Darussalam) believed that individuals should be made responsible for grave violations of international law. National courts were often ineffective in enforcing that responsibility, and there was as yet no permanent mechanism by which individuals could be held accountable, so that there was a strong case for establishing an international criminal court to prosecute individual lawbreakers, and thus break the cycle of violence.

13. The core crimes should be included in the jurisdiction of the Court. Aggression could also be included, provided that it was clearly and precisely defined. The impartiality and independence of the Court could be achieved by ensuring that the judges and other officers of the Court were fully qualified in their particular fields. The Court should have jurisdiction in internal as well as in international conflicts, as most war crimes currently occurred in internal conflicts.

14. The Prosecutor should be allowed to perform his or her tasks without unnecessary hindrance, but subject to the control of the Pre-Trial Chamber. Undue delays could deny justice to victims of atrocities. Since the Court must be impartial and independent, and not subject to any political influence, he supported a close relationship with the United Nations through an appropriate agreement.

15. Complementarity was crucial to the jurisdictional relationship between national justice systems and the Court, which should supplement and not supplant national jurisdiction. States had the primary duty to investigate and prosecute those suspected or accused of committing the crimes which fell within the Court's jurisdiction. Therefore, the Court should not act when States were able and willing to do so.

16. If the International Criminal Court were to be fully effective, it must cooperate closely with States parties. Provisions relating to evidence and procedure would be more properly set out elsewhere than in the Statute.

17. **Mr. NAZAROV** (Tajikistan) said that the world community had been powerless to respond to acts of violence around the world simply because the legal instruments to bring those responsible to justice had not been available. There was an acute need to establish a permanent international mechanism to react promptly to such events and punish those who defied mankind with their crimes. He welcomed the widespread support given to the establishment of an international criminal court. The Court should have jurisdiction over serious international crimes, genocide, aggression, crimes against humanity and war crimes. Terrorism and drug trafficking should also be included.

18. The international criminal court must be independent. The Security Council, with its responsibility for preserving international peace and security, must determine whether a crime of aggression had taken place, and its relevant decision must be binding on the Court for the institution of proceedings against the party declared to be the aggressor. In other cases, decisions of the Security Council and other international institutions must be regarded simply as recommendations or applications for the initiation of judicial proceedings. The Court must be absolutely independent in its proceedings and decisions. It should consider only consider cases in which the national courts of the States concerned, for whatever reason, were incapable of rendering justice.

19. **Mr. FALL** (Guinea), recalling the atrocities perpetrated in many parts of the world, said that the creation of an independent, efficient and effective international criminal court would be a great step forward in implementing human rights. The Court would have to be fully independent, and the Prosecutor should be empowered to open proceedings *proprio motu*, subject only to control by the Pre-Trial Chamber.

20. The complementarity of the Court with national jurisdictions was essential to preserve the sovereignty of States. The Court would exercise its jurisdiction over major crimes such as genocide, crimes against humanity, war crimes and crimes of aggression whenever national jurisdictions did not exist or were unable to prosecute.

21. **Mr. GÖRÖG** (Hungary) said that the International Criminal Court should have inherent jurisdiction over the core crimes of genocide, war crimes (whether committed in international or internal armed conflicts) and crimes against humanity. The crime of aggression should also be included, provided that the crime itself and the relevant role of the Security Council could be satisfactorily defined. There should be no requirement for State consent to the Court's jurisdiction, and the Court should have the authority to determine whether the competent national courts were unable or unwilling to exercise their jurisdiction. The Prosecutor should be empowered to initiate investigations and proceedings *proprio motu*, subject only to review by the appropriate organs of the Court itself.
22. States parties must comply with requests for assistance and cooperation by the Court, and should not allow national laws and cooperation agreements between States to constitute grounds for refusal. The Court should ensure observance of the highest international standards of fair trial and due process at all stages of the proceedings. There should be no reservations to the Statute, because that would defeat the purpose of the Court.

23. **Mr. ZARIF** (Islamic Republic of Iran) said that the establishment of an international criminal court, independent, universal, effective and impartial, would be a milestone towards achieving peace with justice. The

crime of genocide, serious violations of the laws and customs of war, and grave breaches of the four Geneva Conventions of 1949, as well as the crime of aggression, should be covered by the Statute.

24. He drew the attention of the Conference to the special declaration of the Movement of Non-Aligned Countries and to the views of the Asian-African Legal Consultative Committee on ways and means of ensuring universal acceptance of the Court's Statute.

25. He agreed that the Court should be complementary to national criminal justice systems. It would act only where domestic trial procedures were ineffective or unavailable. That should ensure cooperation between States and the Court.

26. The Court should be an independent judicial body, free from political influence and interference. The responsibility of the Security Council to determine the existence of aggression should not undermine the role of the Court in ascertaining the existence of a crime. Aggression and the related role of the Security Council should be defined clearly in the Statute. There should be no suggestion that decisions of the Court were influenced by the Security Council.

27. The Prosecutor should be independent, with clearly defined powers. He or she should have the means to conduct effective and independent investigations and prosecutions. It would be premature, however, to enable him or her to initiate proceedings before the Court. It was also imperative to decide the means of election of judges and other officials of the Court, so as to represent major legal systems and ensure equitable geographical distribution.

28. **Mr. MUTALE** (Zambia) said that recent ethnic conflicts had underlined the need for a permanent international criminal court. Such a court, independent and impartial, would be an effective complement to national criminal justice systems. It must have inherent jurisdiction over the core crimes of genocide, crimes against humanity, war crimes in international and non-international armed conflicts, and aggression.

29. He strongly supported the appointment of an independent and impartial prosecutor, able to initiate investigations into alleged crimes over which the Court had jurisdiction, based on information from any source, without interference.

30. The rights of suspects, accused persons, witnesses and victims should be upheld at all stages of the proceedings. The Court should be funded from the United Nations regular budget, which would facilitate its universal acceptance particularly by smaller, financially weaker States. The Security Council, with its role of maintaining international peace and security, must not be seen to undermine the independence of the Court.

31. **Mr. HAJIYEV** (Azerbaijan) said that, in the past, special courts had been set up to punish those who had perpetrated international crimes. He reaffirmed his belief in the establishment of an effective, viable, independent and strong international criminal court.

32. The principle of complementarity was very important, since the Court should exercise jurisdiction only where national criminal justice systems were not available or ineffective, and only over the most serious crimes such as genocide, aggression, war crimes and crimes against humanity. There should be no statute of limitations for such crimes. States parties should fully recognize the jurisdiction of the Court over those crimes, provided that their occurrence had been confirmed by the Security Council. States should also have the possibility of addressing the International Criminal Court directly. States which were not parties to the Statute should also be subject to its

jurisdiction. The Court must have an independent Prosecutor, with authority to investigate ex officio, but there should be provision for appeal against his or her actions.

33. The death penalty should be excluded, not only for humanitarian reasons but because the objective of the Court was justice rather than retribution.

34. States parties should be responsible for financing the International Criminal Court.

35. **Mr. PERAZA CHAPEAU** (Cuba) supported the creation of an impartial, independent, effective and free court so as to achieve the humanitarian ideal of justice. Despite its independence, the Court could not be separate from the States that created it, and it could not be an instrument for interfering in the internal affairs of States. The principle that States themselves were responsible for prosecuting and punishing perpetrators of crimes against the laws of war or international humanitarian law should be reaffirmed. The Court must clearly have jurisdiction over crimes such as genocide, aggression, war crimes and crimes against humanity, but it should not act when those crimes were being effectively prosecuted by national courts. A clear definition of such crimes would ensure the application of the principle of *nullum crimen sine lege*.

36. The jurisdiction of the Court in respect of a crime should be based on consent by the States parties to the Statute. Its jurisdiction should cover aggression and the threat or use of force, as a constituent part of aggression. The Court should not be subordinate to the Security Council. The main guarantee of its success lay in the good faith of States parties in fulfilling their commitments. It would need stable financial resources.

37. **Ms. SUCHOCKA** (Poland) said that the establishment of the International Criminal Court would strengthen the rule of law, by addressing the individual responsibility of perpetrators of the most serious international crimes. It would constitute a mechanism to combat genocide, war crimes and crimes against humanity. The Court should be complementary to national jurisdictions, but vested with sufficient powers to determine whether States parties had properly discharged their responsibilities or not. It should have automatic competence in respect of core crimes when a State became a party to the Statute. She also fully supported the idea of extending the Court's jurisdiction to the crime of aggression, provided that an acceptable definition could be found. The relationship between the Security Council's competence in determining the existence of an act of aggression and the jurisdiction of the Court should also be clarified. In order to ensure broad access to the Court, States and the United Nations should have the right to bring cases. At the same time, the Prosecutor should have the power to institute proceedings ex officio. The Security Council's role in maintaining international peace and security should not be diminished, but the mere fact that such a matter was on the Council's agenda should not be allowed to obstruct prosecution by the Court. She also supported the creation of a Pre-Trial Chamber to review all indictments and assist the Prosecutor.

38. It was essential that the Statute should include a clearly defined and unconditional obligation on the part of States parties to cooperate closely with the Court.

39. **Mr. GATTI** (San Marino) hoped that the International Criminal Court would be truly independent, efficient and authoritative. Its relationship with national jurisdictions must be based on complementarity and it should intervene only when national legal systems were unable or unwilling to punish those responsible for crimes under the Statute. The Court must be able to determine which cases fell under its jurisdiction. States should not have the option to choose or refuse the jurisdiction of the Court, as that would undermine its effectiveness.

40. He supported the appointment of an independent Prosecutor, able to initiate proceedings subject to appropriate internal control mechanisms. Crimes subject to the Court's jurisdiction must include crimes perpetrated during national as well as international armed conflicts.

41. **Mr. NASR** (Lebanon) said that the International Criminal Court should contribute to the maintenance of international peace and security. Its role would be complementary to that of the Security Council. While the latter was entrusted with enforcement measures against States, the Court could take similar action against individuals. Sanctions would no longer have to be used against peoples and third-country parties, who collectively bore the brunt of sanctions under existing practices.

42. If the Court were to be impartial and effective, it must reflect differing legal systems, particularly in regard to the Office of the Prosecutor. The concept of complementarity of jurisdiction between the Court and national courts must be clear. That would preclude the possibility of political manipulation in defining the willingness of a State to investigate or prosecute a crime. The Prosecutor must be given clear authority to submit a case to trial at the request of a State whose nationals were the victims of a criminal act expressly described in the Statute.

43. The most serious crimes of concern to the international community, namely, genocide, war crimes, crimes against humanity and the crime of aggression, would come under the jurisdiction of the Court, which should extend to all acts listed under the Geneva Convention.

44. **Ms. HODARK** (Croatia) said that international war crimes tribunals such as that for the former Yugoslavia had given a strong impetus for the establishment of a permanent and universal international criminal court. Experience showed that the establishment of a permanent and universal court was possible only if the conditions for just and equal treatment of all individuals and States were fully met. To a certain extent, that meant abandoning the traditional concept of sovereignty of States, although at the same time the principle of subsidiarity must be fully acknowledged.

45. The Court and its Prosecutor must be entirely independent of the political will of individual States. All States, regardless of size, economic or military strength, must cooperate with the Court and implement its decisions in the same manner. There must also be guarantees that cases brought before the Court were of sufficient gravity and significance. The Court must not be burdened with minor violations.

46. **Mr. RAIG** (Estonia) said that a permanent, independent, impartial and effective international criminal court was needed, in the light of persistent gross violations of human rights. Such a court would provide the necessary judicial response in cases where national courts were not able or willing to prosecute suspected persons or investigate crimes.

47. He fully concurred with the representative of the European Union. He also emphasized that the Court should have jurisdiction over the core crimes of genocide, crimes against humanity and war crimes and, when properly defined, the crime of aggression. A State that became a party to the Statute must accept the Court's jurisdiction over all such crimes, including those committed in conflicts of a non-international nature. The Prosecutor must be able to initiate a proceeding ex officio, and to receive complaints from the widest range of sources. The Security Council must also be able to refer situations to the Court. However, to ensure that the Court was impartial and independent, the Security Council should not be able to prevent or delay prosecutions when dealing itself with a situation under Chapter VII of the Charter.

48. There should be no provision for the death penalty.

49. The Court should be financed in a flexible manner from the regular budget of the United Nations and from contributions by States parties.

50. **Mr. LEANCA** (Republic of Moldova) fully supported the creation of an international body to bring to justice those who had committed the most serious crimes of concern to humanity. Sanctions, embargoes or military force, the usual response to violations of international law by States, affected the innocent civilian population, while the guilty escaped punishment.

51. Provided that it was independent, credible and universal, free from any political influence, the International Criminal Court could make a crucial contribution to peace and security in the world. To make the Court effective, States parties to the Statute must accept its jurisdiction over the crimes covered by its Statute. They must also cooperate and provide the necessary assistance.

52. The principle of complementarity must be respected, where national courts were able and willing to prosecute the perpetrators of crimes. The jurisdiction of the Court should cover genocide and war crimes, and, subject to determination by the Security Council, crimes against humanity and aggression. The relationship with the Security Council was very important. However, the Security Council must not be able to halt judicial proceedings other than by a joint decision of all the permanent Members. The Prosecutor should have the right to initiate investigations in the absence of any decision by the Security Council.

53. No reservations should be permitted to the Statute, thus the positions of all States parties would be uniform.

54. **Mr. GOTZEV** (Bulgaria) said that Bulgaria had always supported the establishment of a permanent and effective international criminal court with jurisdiction over the most serious violations of international humanitarian law. He shared the view that the International Criminal Court should complement national legal systems, exercising its jurisdiction only when it was not possible to investigate and punish the crimes concerned. Bulgarian criminal law incorporated international norms on the investigation and punishment of crimes against peace and humanity. He supported the principle that the Court should exercise jurisdiction with respect to the most serious crimes, such as genocide, crimes against humanity, war crimes, and aggression. Given that war crimes were frequently committed in internal conflicts, the Court should include those in its jurisdiction.

55. Bearing in mind the role of the Security Council, under Chapter VII of the Charter, it was important to maintain the independence of the Court in its relations with the Security Council.

56. The role of the Prosecutor was very important. He or she should act independently of decisions by the Security Council, otherwise the latter's veto could prevent the proper functioning of the Court. The Prosecutor should also act at the request of States. The Court's independence would largely depend on a sound financial basis and on the mandates of its officers.

57. **Mr. RICHARDSON** (United States of America) said that the creation of an international criminal court would ensure that the perpetrators of the worst criminal assaults on mankind—genocide, serious war crimes and crimes against humanity—did not escape justice. That would send a clear and unmistakable warning to would-be tyrants and mass murderers that the international community would hold them responsible for their actions.

58. The Court could be truly powerful and effective only if it were built on a firm foundation of international consensus and support and adopted a realistic and workable approach. When national legal systems could not or would not act, ad hoc international criminal tribunals, such as those for the former Yugoslavia and Rwanda, demonstrated that the world could confront evil, secure justice, and ensure international peace and security through

the application of international law. A similar tribunal should be set up to prosecute the perpetrators of atrocities in Cambodia.

59. The Court must be part of the international order, in which the Security Council, with its responsibility for maintaining international peace and security, must play an important role, *inter alia* regarding its trigger mechanism. It must be able to refer critical situations to the Court and instruct countries to cooperate with the Court. The Council's Chapter VII powers would be absolutely essential to the working of the Court.

60. To achieve the support of the international community, the Court must complement national jurisdictions and encourage national action wherever possible. For that reason, it would be unwise to grant the Prosecutor the right to initiate investigations. That would overload the Court, causing confusion and controversy, and weaken rather than strengthen it. The Prosecutor should not be turned into a human rights ombudsman responding to complaints from any source. The proposal that the Prosecutor should have powers to initiate proceedings was premature. However, he or she should have maximum independence and discretion in prosecuting cases referred by States parties or the Security Council.

61. The jurisdiction of the Court must extend to internal armed conflicts, crimes against humanity, including rape and other grave sexual violence. The Court must have a clear, precise and well-established understanding of what conduct constituted a crime. At the same time, acts not clearly criminalized under international law should be excluded from the definition. It was, therefore, premature to attempt to define a crime of aggression in terms of individual criminal responsibility. Vague formulas that left the Court to decide on the fundamental parameters of crimes should be avoided.

62. The goals of the Conference would be best served by the creation of a court that was physically and administratively independent from the United Nations. However, it should not exist to sit in judgement on national systems and intervene if it disagreed with them. It should focus on recognized atrocities of significant magnitude and thus enjoy near universal support.

63. **Mr. HEDBERG** (Observer for the Council of Europe) said that a permanent international criminal court could have legitimate status only if it were established by the United Nations. The Conference offered a historic opportunity to end impunity for international crimes and deter future atrocities.

64. The Council of Europe strongly supported the creation of the Court as a means of consolidating the rule of law at international level. Its Parliamentary Assembly had frequently called for the creation of such a court.

65. The Court must have the solid support of the international community and be endowed with the powers, procedures and means to be effective, thereby commanding immediate and permanent respect throughout the world. Its judges must be independent and of the highest professional standing. The Court was not, however, a substitute for effective, independent national judicial systems which should be fully involved.

66. In the current year, no capital punishment had been carried out in member States of the Council of Europe, the vast majority of which had ratified Protocol 6 to the European Convention on Human Rights. The Council of Europe's mechanisms for the protection of human rights offered examples of strong and effective institutions which relied on their preventive and deterrent effect and the respect that had developed over time.

67. **Mr. DUBOULOZ** (Observer for the International Humanitarian Fact Finding Commission) said that the Rome Conference was a logical sequel to the 1949 Geneva Conventions which had defined precise rules to protect

human life and dignity in armed conflict. Those Conventions had certainly been most useful, even in the absence of a basic instrument to make them fully effective. The establishment of an international criminal court was certainly the missing element.

68. He had great hopes of the Court. His own Organization could be a first choice as an instrument for establishing the facts, particularly where rapid reaction was necessary in order to conserve evidence. It had also taken powers under its rules of procedure to investigate situations of internal armed conflicts.

69. **Mr. KENDALL** (Observer for the International Criminal Police Organization) said that the establishment of an international criminal court was particularly welcome to his Organization, with its responsibility for fighting international crime. Interpol, with its 177 member States, was the only intergovernmental organization able to exchange police information in a rapid, reliable and permanent manner. It was thus in a position to help the International Criminal Court. Its constitution allowed it to assist in tracking down individuals, as its assistance to the international criminal tribunals at The Hague and Arusha had demonstrated. That should constitute a precedent in international law which should be developed when establishing a permanent court. Complementarity in relation to national jurisdiction meant that the Court would play an important role where national criminal justice was unavailable or ineffective. The member States of Interpol, which had established conditions for mutual assistance in law enforcement, must respect that complementarity, ensuring the same conditions for assistance to the Court as to national courts.

70. He regretted that the wording of article 86 of the draft Statute implied that recourse to Interpol was a subsidiary means for transmitting requests for cooperation to States. That was a backward step compared with other conventions on mutual legal assistance in criminal matters, which recognized, particularly in urgent cases, that Interpol was the most readily available means of transmission. He had certain improvements relating to international cooperation and mutual legal assistance to propose for inclusion in the draft Statute and requested permission to participate in the working group on Part 9 of the draft Statute.

71. **Ms. OBANDO** (Observer for the Women's Caucus for Gender Justice in the International Criminal Court) urged all delegations to establish a court that would put an end to impunity and guarantee justice and reparation to the victims of the most serious violations of human rights and humanitarian law. It should be structured to reflect the disproportionate impact of such crimes on women.

72. The Court should be governed by the principles of independence, effectiveness, universality, comprehensiveness and credibility. It should have inherent jurisdiction over war crimes, crimes against humanity, genocide and aggression, without requiring State consent. War crimes should cover both internal and international armed conflicts, and include all acts of sexual and gender violence.

73. Gender balance should be observed in the structure and procedures of the Court. There should be a legal adviser on gender issues in the Office of the Prosecutor to monitor gender compliance, particularly in the investigation of crimes.

74. Victims and non-governmental organizations should be allowed to present complaints prior to an investigation. Effective protection should be granted to victims and persons at risk, *inter alia* by the establishment of a Victims and Witnesses Unit in the Court to guarantee their safety.

75. **Mr. BUSDACHIN** (Observer for the Transnational Radical Party) said that his Organization had long campaigned for the establishment of an international criminal court, which would be a powerful tool to complement

political action and diplomacy. He hoped that justice would never again be separated from peace or sacrificed on the altar of *Realpolitik*. What was required was not an "alibi" tribunal, but an effective, fair and independent court that would bring war criminals to justice, a court in which the Prosecutor would be able to initiate investigations. Although funded from the regular budget of the United Nations, it would remain an independent institution within the United Nations system. It would establish the principle of a new dimension of national sovereignty and overcome the principle of non-interference.

76. **Mr. GOLDSTONE** (Observer for the Coalition for International Justice), speaking as the first Chief Prosecutor for the ad hoc tribunals, emphasized the cardinal importance of a politically independent court with an independent prosecutor. If the Court had jurisdiction over widespread and systematic violations of the most serious war crimes and crimes against humanity, and if the Prosecutor were accountable to the judges of the Court, there would be no grounds for fearing that the Prosecutor might "run wild". States parties would have substantial protection if the Prosecutor were accountable and removable by judicial process. In addition, the Office of the Prosecutor would necessarily be staffed by professional lawyers and investigators from many countries, who would inevitably draw attention to any inappropriate action or political bias on the part of the Prosecutor. The rules on complementarity and judicial procedures to allow challenges to a prosecutor's assertion of jurisdiction would provide further protection.

77. An international criminal court that was not free of political control would certainly not enjoy the confidence and cooperation essential for its success. Most importantly, it was the victims who would suffer the most if the Court were not independent and effective.

The meeting rose at 1 p.m.